

# **Representing Yourself at the State Office of Administrative Hearings**

## **A Guide for Self-Represented Litigants**

**State Office of Administrative Hearings**

**September 2016**

# Getting Started

This is a guide for people involved in a case at the State Office of Administrative Hearings, also called SOAH, who don't have a lawyer for their hearing. When you don't have a lawyer, you are said to be representing yourself. In this guide, people who represent themselves are called "self-represented litigants." There are responsibilities and risks in representing yourself. If you are thinking about representing yourself, please consider the risks, responsibilities, and potential consequences.

If you represent yourself, you must follow SOAH's procedures. This guide will help you understand how to do that. Although SOAH staff may give you general information about rules and procedures, they cannot give you legal advice, help you interpret or apply rules, or otherwise participate in a hearing. If you are involved in a hearing with the Department of Public Safety concerning a suspension of your driver's license, please see the guide called "Representing Yourself in Administrative License Revocation (Driver's License) Cases at the State Office of Administrative Hearings."

This guide is intended to provide general information. It is not legal advice, and it's not possible to cover every situation that might arise. Also, if there is any conflict between this guide and the applicable laws or rules, those laws or rules control.

We will begin with some general questions about SOAH and hearings.

## **What is the State Office of Administrative Hearings?**

The State Office of Administrative Hearings, also called SOAH, resolves disputes between Texas agencies, other governmental entities, and private citizens. SOAH conducts fair and objective administrative hearings and provides fair, timely, and efficient decisions.

When a Texas agency, such as the Texas Department of Licensing and Regulation, the Texas Board of Nursing, or the Department of Family and Protective Services, decides to take certain action against a person or business, the law often allows the person or business to ask the agency for an administrative hearing at SOAH to challenge the agency's action. When a hearing is requested, the agency sends, or refers, the case to SOAH for the hearing.

SOAH is separate and independent from the agencies involved in the cases, and the administrative law judge who hears the case is a neutral decision maker.

## **What is an Administrative Law Judge?**

An administrative law judge, also called an ALJ, conducts the hearing, listens to the evidence and arguments, and in most cases, writes a recommendation for the referring agency who will ultimately decide the case. In some cases, the Administrative Law Judge will issue a final decision. An Administrative Law Judge may also hold conferences before and after the hearing,

issue written orders, and generally control the course of the hearing. All SOAH Administrative Law Judges are licensed Texas attorneys.

### **What is an administrative hearing?**

An administrative hearing is like a trial. Both you and the referring agency can present evidence to the Administrative Law Judge, who will make findings of fact and conclusions of law. The hearing is your opportunity to present your case and tell your side of the story. You should bring everything you might need to present your case to the judge during the hearing.

### **Can I get an attorney?**

You are not required to have an attorney, although you may choose to hire one. An attorney will not be appointed for you.

A free legal clinic is available in Austin for people who meet certain income requirements. This clinic is sponsored by [Volunteer Legal Services](#), who can be reached by telephone at (512) 476-5550. This information is provided only as a public service. SOAH does not recommend or endorse Volunteer Legal Service or any of the lawyers who participate in the clinic.

### **Can I settle my case without a hearing?**

Yes, you may be able to resolve, or settle, your case by talking to the referring agency. Settlement negotiations will be between you and the referring agency's representatives. The Administrative Law Judge will not participate in settlement negotiations.

Also, SOAH offers mediation. Mediation lets the parties, with the help of a mediator (an Administrative Law Judge who is not assigned to your case), try to solve their dispute in a way that works for both of them. Administrative hearings involve conflict, but in mediation, the parties work together. If the parties try mediation, but do not settle the case, they still have the right to a hearing. For more information about mediation at SOAH, such as how to decide whether to try mediation, how to request mediation, and how to prepare for mediation, please see the [Mediation at SOAH](#) and [Preparing for a SOAH Mediation](#) sections on SOAH's website.

### **What if I need an interpreter?**

If you need a language interpreter or an interpreter for the hearing- or sight-impaired, you must file a written request with SOAH at least seven days before the hearing. SOAH will arrange and pay for the interpreter. In your request, be sure to state what kind of interpreter is needed, and, if you are asking for a language interpreter, what language you need.

**Will the hearing room be accessible to people with disabilities?**

Yes. All hearing rooms at SOAH are accessible to people with disabilities. If you will need special accommodations, please contact SOAH's docketing department at (512) 475-3445 as soon as possible.

**May I watch a SOAH hearing?**

Yes. If you would like to attend a hearing, you may go to SOAH's hearing rooms on the fourth floor of the [William P. Clements Building, 300 West 15<sup>th</sup> Street in Austin](#), and check the daily schedule of hearings (the docket), which is posted outside Suite 408. [The docket is also available on SOAH's website](#). The docket will tell you who the parties are, approximately how long the hearing will last, which Administrative Law Judge is conducting the hearing, the room where the hearing will be held, and whether the hearing is confidential. You may attend any hearing, so long as it is not confidential. Confidential hearings are not open to the public.

If you would like to attend a hearing at one of SOAH's field offices, please contact the staff at the office close to you. The contact numbers for these offices are:

Corpus Christi: (361) 884-5023

Dallas: (214) 962-3260

El Paso: (915) 834-5650

Fort Worth: (817) 731-1733

Houston: (713) 957-0010

Lubbock: (806) 792-0007

San Antonio: (210) 308-6681

# Before the Hearing

This section will discuss what happens before a hearing and how to get ready for your hearing. What happens at a hearing will be addressed in the next section. Specific information about administrative license revocation (or driver's license) cases is in a separate guide. You can get the administrative license revocation guide by visiting SOAH's website or by calling SOAH's Docketing Division at (512) 475-3445.

## The Notice of Hearing

After the referring agency has sent your case to SOAH, you will receive a written notice of hearing. The notice of hearing tells you when and where the hearing will be held. It also describes the nature of the hearing and includes a short statement of the facts that the agency claims are true. The notice of hearing will also list the laws and rules related to the hearing. In short, the notice of hearing tells the parties what the hearing is about. Because of this, you can use the Notice of Hearing to see what laws apply to your case and to help you get ready. You should receive the notice of hearing at least ten days before the hearing.

## How to change the date of the hearing

If you can't attend the hearing on the date it is set, you should file a written motion for continuance. A motion for continuance asks that the hearing be rescheduled. A motion for continuance should also say why you can't attend the hearing on the day scheduled. You must file the motion at least five days before the hearing unless you have a good reason for asking later. You must send a copy of your motion for continuance to the other party.

In your motion for continuance, you **must give three proposed dates for rescheduling the hearing. You must also say that you have contacted or attempted to contact the other party about your request, and say whether the other party objects to the continuance. A continuance request may be denied if you don't include this information.** The other party may respond to your motion. The Administrative Law Judge will either grant or deny your motion in a written order that will be sent to you.

**If you filed a motion for continuance and you haven't received an order granting the motion, you should assume your motion has not been granted and you should be prepared to attend the hearing as scheduled.** You may call the Administrative Law Judge's assistant (but not the Administrative Law Judge) to check on your motion.

**[A form for motions for continuance is at the end of this Guide.](#) Information about filing motions is in the section called **How to Get Documents to SOAH Before the Hearing.****

## **How to Move a Hearing to a Different Location**

If you want to ask that your case be moved to a different location, you can file what is called a motion to change venue. In deciding whether to move your case, the Administrative Law Judge will look at the amount at issue in the hearing, how many people in a region are affected by the outcome, how long the hearing will last, the availability of hearing facilities, the costs and preferences of the parties, the location of witnesses, the possibility of videoconference, and restrictions on travel coming from the legislature. The Administrative Law Judge will issue an order stating whether your request is granted or denied.

## **If you (or a witness) would have trouble attending a hearing, you can ask to appear by telephone**

If it is hard for you or a witness to attend your hearing in person, you may file a request to appear by telephone. You must do this at least 10 days before the hearing. This request must include the reason for the request, the name of the party or witness who will appear by telephone, a telephone number where the party or witness can be reached, a statement that the party or witness will be the same person who will appear by telephone at the hearing, and a certificate of conference. If no one objects to your motion to appear by telephone, it is automatically granted. This means you might not receive a written order. **If you are appearing by telephone and have documents you want to give to the Administrative Law Judge at the hearing, you must file those documents with SOAH and give them to the other party at least 3 days before the hearing.**

**If a witness will be appearing by telephone, you must give the witness all necessary documents before the hearing.**

## **May I call an Administrative Law Judge to discuss my case?**

No. The Administrative Law Judge may not talk to you about your case unless all the parties are participating in the discussion. The Administrative Law Judge may not talk to the agency's lawyer, either.

## **How to Get Documents to SOAH Before the Hearing**

### **Filing Documents**

Before your hearing, if you want to ask the Administrative Law Judge to do something like reschedule your hearing date, you must file a motion with SOAH. A motion is simply a written request for the Administrative Law Judge to take some type of action. Sometimes, you have to file other kinds of documents before the hearing as well. Please keep in mind that you must remove some kinds of confidential information, such as social security numbers, driver's license numbers, and children's names, from documents before you file them. This is called redaction. Sometimes, an entire document should be confidential. If a document needs to be filed, but is also confidential, it should be filed "under seal" and marked as confidential. Do not file confidential documents by fax or electronically.

### **How to File a Document at SOAH**

There are three ways to file documents at SOAH—by mail, by fax, or electronically. Be sure to include the SOAH docket number on all of your filings. If you have questions about filing, please call [SOAH's Docketing Division](#) at (512) 475-3445.

#### **Filing By Mail:**

If you want to file your document by mail, please mail it to:

**SOAH Docketing Division  
300 West 15th Street, Room 504  
P.O. Box 13025, Austin, Texas 78711-3025**

SOAH must receive a document by its due date. If you are filing by mail, please allow enough time for your document to get to SOAH before it is due.

#### **Filing by Fax – General Docket:**

If you would like to file by fax, please use these fax numbers for all cases *that are not Administrative License Revocation (ALR or driver's license) cases*

512-322-2061 - Austin  
512-322-0470 - Corpus Christi  
512-322-0471 - Dallas  
512-322-0472 - El Paso  
512-322-0473 - Fort Worth  
512-322-0474 - Houston  
512-322-0475 - Lubbock  
512-322-0476 - San Antonio

### **Filing by Fax – ALR (driver’s license cases):**

If you have an Administrative License Revocation Hearing, file by fax using these numbers:

512-475-4994 - Austin  
361-884-5427 - Corpus Christi  
214-962-3266 - Dallas  
915-834-5657 - El Paso  
817-377-3706 - Fort Worth  
713-812-1001 - Houston  
806-792-0149 - Lubbock  
210-308-6854 - San Antonio

### **Filing Electronically:**

SOAH’s **Electronic Case Information System** lets parties file most documents electronically. To upload documents, click on the *Electronic Case Files* link at the upper right corner of SOAH’s website and click again on the *Document Upload* on the page that appears. You must register with SOAH to file electronically. Clicking on *Document Upload* will lead to a page that will allow you to create a new account. Electronic filing is not available in Administrative License Revocation (driver’s license) hearings.

### **Giving Documents to the Other Party / Serving Documents**

The same day you file a document, you must deliver, or “serve,” a copy of what you are filing to every party involved in your case. The name and address of an agency’s lawyer will be on the notice of hearing you received. You can also find the names and addresses of each party in the electronic case file on SOAH’s webpage. If the party has a lawyer, you must serve the document to the lawyer. You may serve the other parties by (1) hand-delivery; (2) regular, certified, or registered mail; (3) fax; or (4) email, if the other party agrees to be served by email.

When you file a document with SOAH, you must include a statement that you have given that document to all the other parties. This is called a “certificate of service,” and it is usually found after a party’s signature. Here is an example:

I certify that on (ADD THE DATE), a true and correct copy of this (ADD THE NAME OF THE DOCUMENT) has been sent to (ADD THE NAME OF THE OPPOSING PARTY OR THE PARTY’S AUTHORIZED REPRESENTATIVE) by (STATE HOW YOU DELIVERED THE MATERIAL, SUCH AS BY HAND-DELIVERY, MAIL, OR FAX).

(YOUR SIGNATURE)



A completed certificate of service will look like this:

**CERTIFICATE OF SERVICE**

I certify that on October 1, 2016, a true and correct copy of this motion for continuance was sent to Tom Jones, staff attorney for the Texas Department of Licensing and Regulation, by certified mail.

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John Smith

**What happens if I forget to include a certificate of service on something I file with SOAH?**

If you do not include a certificate of service, SOAH may:

- return the filing to you,
- tell you the filing will not be considered until you have served the document on all parties, or
- send a copy of your filing to all parties.

**What if the other party or SOAH denies receiving the document that I filed and sent them?**

You are responsible for proving the date and time of filing and service for anything you file with SOAH. Therefore, it is important to keep good records of what you filed with SOAH and served on the other party and also keep records of when and how you delivered those documents.





## Rules and Laws



Before your hearing, you should determine what rules and laws apply to your case. The Notice of Hearing in your case should list those rules and laws. There are two main kinds of rules: procedural rules and substantive rules.

### Procedural Rules


Certain rules, called procedural rules, set out how hearings work at SOAH. In most cases, those rules are SOAH's own rules. You can find them at 1 Texas Administrative Code chapter 155.



Some cases heard at SOAH use different procedural rules. If you are involved in any of the following types of hearings, these specific rules apply to your hearing:

- [Administrative License Revocation \(or driver's license cases\)](#)
- [Public Utility Commission of Texas](#) 
- [The Texas Commission on Environmental Quality](#) 
- [The Employees Retirement System](#) 
- Certain cases referred by the [Office of Comptroller of Public Accounts](#) 
- [Appraisal Review Board Appeals](#)
- [Individuals with Disabilities Education Act](#)

Sometimes these rules also refer to the [Texas Rules of Civil Procedure](#)  or the [Texas Rules of Evidence](#) . You can find links for all of these rules on SOAH's website, or you can ask for assistance at your local library or county courthouse.

### Substantive Law

Cases at SOAH usually involve two other sources of law: the statute or code (for example, the Texas Insurance Code or the Texas Water Code); and the referring agency's substantive rules, which can be found in the [Texas Administrative Code](#) . Statutes and substantive rules deal with how the facts of the case lead to a decision. Usually, the statutes and rules that apply to your case may be found in the notice of hearing. This is usually the best place to look to find the specific law for your case.

In the [Research Tools](#) section of SOAH's website, you will find a link for [Texas Statutes](#) . Use this tool to locate and search for the law that applies to your case. [Research Tools](#) also has a link to the [Texas Administrative Code](#) , where you can search for the agency's substantive rules that apply to your case. The websites of most agencies also contain links to the statutes and rules that apply to their cases. Links to state agency websites can be found at <https://www.tsl.texas.gov/apps/lrs/agencies/index.html>.

**You should review and be familiar with the procedural rules and the substantive law and rules that apply to your case.** In addition to this website, the laws and rules are available at many public and county courthouse libraries.

## Discovery

### What is discovery and why is it helpful?

Discovery is a process for you to request the information and documents the agency has about your case. Discovery lets you get information and documents the agency staff plans to use as evidence at the hearing. Also, you can get information and documents the agency has that are reasonably connected to your case.

Discovery can help you understand what information the agency has about your case. It helps you prepare your case and helps prevent surprises at the hearing.

### Types of discovery

You can ask for information and documents from the agency and any other parties to the case through what are called (a) requests for disclosure, (b) interrogatories, and (c) requests for production. In most cases, unless you agree to give the agency more time, it must answer your requests and interrogatories within 20 days.

***Requests for disclosure***, when sent to the other party, require the other party to tell you the names of people who have knowledge of your case and to tell you who it thinks will be witnesses, and to give you copies of any statements or reports it has from those witnesses.

To make a request for disclosure, send a written request to the other party's lawyer. It should say this:

"You are requested to disclose, within 30 days of service of this request, the information and material described in Rule 194.2 of the Texas Rules of Civil Procedure."

***Interrogatories*** are questions about the case that you can send to the other party. The other party must answer the questions, unless it objects to a question on a legal ground. You can send 2 sets of interrogatories, and each set is limited to 25 questions.

People often use interrogatories to get more detail about the evidence the other side has.

***Requests for production*** are requests for documents that the other party has, including those it will use at hearing, that are reasonably related to your case.

### Who gets to participate in discovery?

The state agency or other parties to a case can also send you discovery. It is important for you to respond to discovery. In most cases, you have 20 days from the day you received discovery from the agency to answer and/or object to the requests.

## **Objecting to discovery**

If the other party's discovery asks you to provide information or documents that is private information you do not wish to share, or that is not relevant to the case, you can object in writing, by sending your objections to the agency within 20 days.

If the agency feels your discovery asks for information or documents that are not connected to the case, it can also object and not provide answers.

Some common objections are that a request or interrogatory:

- Asks for information or documents that are not relevant or that will not lead to admissible evidence. (In other words, they ask for things that are not really connected to the case.)
- Is vague and unclear. (In other words, the other party is not sure what you are asking for.)
- Asks for things the other party does not have or cannot reasonably get.
- Asks for something that has already been provided.

## **Motions to compel**

If the other party does not give you information you asked for in discovery, you can file what is called a motion to compel. This is a request to the Administrative Law Judge to overrule the objection and order the party to answer the discovery requests. If you don't answer discovery, the other party can also file a motion to compel against you.

You must contact the attorney for the other party before you file a motion to compel to see if you can work out the dispute. The other party must also contact you before filing a motion to compel.

If you file a motion to compel, you should list the specific interrogatories or requests for production that the agency objected to, and attach them to your motion. You also need to explain to the Administrative Law Judge why the information or document you have asked for is relevant to the case and should be produced.

## **Do not file discovery with SOAH**

You should not file discovery requests or answers with SOAH. If you need to file a motion to compel, you should attach the discovery in dispute to the motion when you file it with SOAH.

## Motions for Summary Disposition

Sometimes an agency or other party will argue that there shouldn't be a hearing because the law requires a decision in its favor no matter what evidence you have. The agency will do this by filing a motion for summary disposition. This is a request for the Administrative Law Judge to rule that the agency wins either part or all of the case without having a hearing. The agency will file documents with the motion that it feels proves its case.

If an agency files a motion for summary disposition, you have 14 days from the date the motion is filed to file your written response to the motion. **IT IS VERY IMPORTANT THAT YOU FILE A WRITTEN RESPONSE TO THE MOTION BY THE DEADLINE.** If you do not, the judge may decide all or part of the case against you without a hearing.

When you respond to a motion for summary disposition, you need to explain why there are questions about the facts of the case that require a full hearing. It is helpful to point out to the judge if different witnesses tell different stories about the facts in question, or if documents support your side of the story. **You must state your best case in writing to the Administrative Law Judge in your response to a summary disposition motion.**

In your response, you should include your own testimony in the form of an unsworn declaration under penalty of perjury. You don't need to get your testimony notarized. This testimony should include the facts that you feel show that you should win the case. Also, you should include with your response all documents that you feel show that you should win the case, which could include, as appropriate, letters, reports, medical records, invoices, contracts, business records, photographs, printed emails, and similar items.

**[A form for a response to a motion for summary disposition is at the end of this Guide.](#)** Information about filing motions and responses is in the section called **[How to Get Documents to SOAH Before the Hearing.](#)**

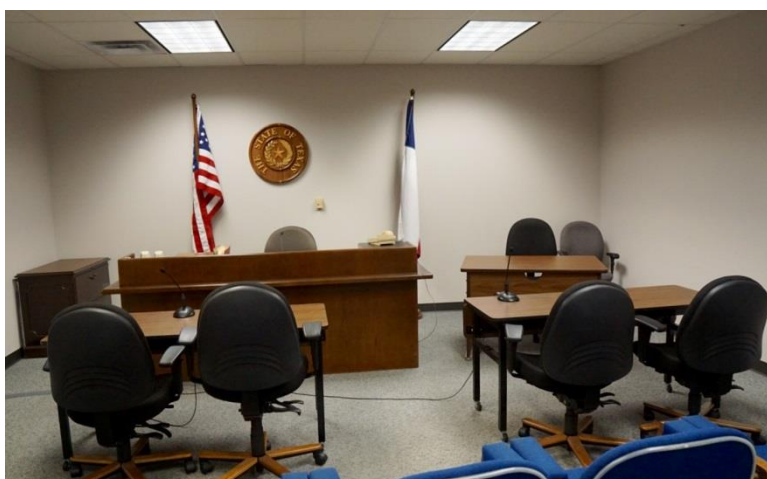
# The Hearing

**This section will discuss the actual hearing day and what happens after the hearing .**

## **Where will my hearing be held?**

Your notice of hearing will tell you where your hearing will be held. Many hearings are held at the Clements Building, which is located at 300 West 15<sup>th</sup> Street in downtown Austin, Texas. The Clements Building is located on the north side of 15<sup>th</sup> Street between Guadalupe and Lavaca Streets. SOAH's hearing rooms are on the fourth floor of the building. [Click here for a layout of the hearing rooms.](#) Go to Suite 408 to find out the room for your hearing.

The hearing will be held in a room like the one shown here. Please arrive early in order to become familiar with your surroundings.



Some hearings are held in SOAH's field offices in other cities throughout Texas. A list of [SOAH's field offices](#) is posted on SOAH's website. Directions to the hearing locations are also found on SOAH's website.

## **Where should I park for a hearing at the Clements Building?**

There are several pay parking garages near the [Clements Building](#), including one on Guadalupe Street across the street from the building. There are also pay surface lots and metered parking spaces at various locations around the building. There is no visitor parking in the garage next to the Clements Building. If your hearing is at one of the field offices or another location, you should check with that field office about parking.

## **Do I need identification to enter the Clements Building?**

Yes. You must show a government-issued form of identification and sign in with the security officer in the lobby of the Clements Building. It is helpful to know your SOAH docket number and the name of the case when you sign in. After you sign in, the officer will give you a visitor's badge, and you will be allowed to use the elevator.

## **What happens at a hearing?**

Hearings can last anywhere from a few minutes to an entire week or longer, depending on the subject of the hearing. Hearings have most of the following steps, although some of these steps can be skipped:

- ***Opening statement*** - Each party may quickly explain its position in the case and say what it believes it will prove with evidence. The opening statement is not evidence. The party with the burden of proof (explained below) will be asked to make its opening statement first, and the other party will follow. You don't have to make an opening statement, but it helps the Administrative Law Judge understand your position.
- ***Presentation of evidence*** - In most cases, the party who is asking that something be done has the burden of proof and must show by evidence (such as testimony and documents) that it is entitled to what it is seeking. Usually, this party presents its evidence first, followed by the other party or parties. Evidence is discussed in a separate section of this Guide.
- ***Witnesses*** – As part of the presentation of evidence, each party may call witnesses, who are placed under oath (in other words, they swear to tell the truth). Witnesses first answer questions from the party who called them and then may be cross-examined by the other party. In some circumstances, witnesses may be required to wait outside the hearing room until they are called to testify.
- ***Exhibits*** - If a party intends to offer a document into evidence, the party must provide a copy for the Administrative Law Judge, a copy for each other party, and a copy for itself. The person who prepared the document may need to testify about it before it can be admitted as evidence.
- ***Objections*** - Any party may object to questions, testimony, or exhibits. An objection must have a legal reason. The Administrative Law Judge will either "sustain" the objection (which means the testimony or exhibit won't be considered when deciding the case) or "overrule" the objection (the evidence can be considered).

- ***Closing argument*** – At the end of the hearing, each party may summarize what the evidence shows and argue why the Administrative Law Judge should recommend a decision in that party's favor. The closing argument is not evidence.

### **What is the burden of proof?**

The party who has to prove its claims is said to have the burden of proof. In hearings at SOAH, the party with the burden of proof must show the facts by what is called a “preponderance of the evidence.” This means the party with the burden of proof must show that a fact is more likely than not true. Cases at SOAH are not criminal cases. Because of this, the burden of proof in hearings at SOAH is never the criminal standard of “beyond a reasonable doubt.”

### **Does the referring agency have the burden of proof or do I?**

Most of the time, the party that sends the case to SOAH—in other words, the agency—must meet its burden of proof to win. However, in some cases, if an individual or business is challenging an action by an agency or is requesting an agency do something, the individual or business will have the burden of proof. When it may not be clear who has the burden of proof, the Administrative Law Judge will look at the case and decide who has the burden of proof.

### **What happens if I don't attend the hearing or don't participate in the proceedings?**

If you don't show up for the hearing, your case may be dismissed and handled by the agency or a default decision may be entered against you.

### **May I bring witnesses to the hearing?**

Yes, you may bring witnesses to testify for you. Witnesses should have personal (that, is first-hand) knowledge about the case. In some cases, there may be an order requiring the parties to exchange the names of their witnesses and to provide a summary of the witnesses' testimony before the hearing so that the parties can prepare. In those cases, if you don't provide the information, your witnesses may not be allowed to testify.

If your hearing is in person, simply have your witnesses appear at the hearing location at the time and date for the hearing. Contact your witnesses before the hearing and have them arrange their schedules so they can arrive on time and be prepared to participate in the hearing. You may also request that witness appear by telephone.

### **I want to make sure a witness appears at my administrative hearing. How can I do that?**

To legally require a witness to appear at a hearing, a subpoena for his or her appearance must be issued. A subpoena is an order that requires a witness to appear and testify or to bring books, records, and other information to the hearing. In most cases, SOAH does not issue subpoenas. If you want to subpoena a witness, you must ask the referring agency to issue a subpoena. You can



just ask a witness to voluntarily appear at a hearing for you, but a witness is not required to show up unless subpoenaed.

SOAH issues subpoenas in administrative license revocation (driver's license) cases. Please see the administrative license revocation guide for more information.

### **May I bring documents as evidence?**

Yes. Be sure to bring copies for the Administrative Law Judge and all other parties. Pay attention to any orders that may require you to list or exchange the exhibits you intend to offer into evidence *before* the hearing. If there is an order like that, and you don't list or exchange the exhibits, you might not be allowed to use them at the hearing.

Please remember to put page numbers on documents you want to use as evidence.

### **What should I wear to the hearing?**

There is no dress code for hearings at SOAH, but we ask that you respect the occasion by dressing appropriately. Many people choose to wear suits or other business clothing to hearings, but you do not need to buy business clothing if you do not already have it.

### **What should I call the Administrative Law Judge at my hearing?**

You should call the Administrative Law Judge "Your Honor" or "Judge."

### **Are hearings open to the public?**

SOAH hearings are open to the public, except for a few kinds of hearings that the law makes confidential. However, anyone whose conduct interferes with a hearing may be removed from the room. With some exceptions, hearings may be recorded or photographed, but the person who wants to photograph or record the hearing must notify the Administrative Law Judge before doing so. Also, a person's recording or photographing must not interfere with the proceedings.

### **What if I have an emergency at the last minute and can't attend the hearing?**

If you have an emergency, call SOAH's Docketing Division at 512-475-3445 and explain the situation. One of the docket clerks will let the Administrative Law Judge know that you can't attend the hearing. If your case is being heard at one of the field offices, please call that office. **It is important to notify SOAH of your emergency as soon as you can so that the Administrative Law Judge can take appropriate action, if necessary.**

### **How will the testimony be recorded?**

The testimony will be recorded on a digital voice recorder or by a court reporter. SOAH does not provide court reporters.

### **How do I get a copy of the hearing testimony?**

If the hearing was recorded on a digital recorder, you can request a copy of the recording by emailing Docketing @soah.texas.gov or by calling (512) 475-3445.

If a court reporter recorded the hearing, you may request that he or she prepare a transcript and provide you a copy. The cost of the transcript is the responsibility of the party making the request for the transcript. However, parties may agree to share the cost of the transcript.

### **Will the Administrative Law Judge make a decision on my case at the hearing?**

No. In most cases, after the hearing, the Administrative Law Judge will prepare a written Proposal for Decision or a final Decision and Order based on the evidence admitted at the hearing. A copy of the Proposal for Decision or Decision and Order will be sent to you when it is issued.

### **Will the Administrative Law Judge ask for more information after the hearing?**

The Administrative Law Judge might ask the parties to provide written arguments about a particular issue in the case, or may ask that additional evidence be filed. It depends on the case. You should be completely prepared for the hearing; you should not count on the Administrative Law Judge letting you provide additional evidence after the hearing is over.

### **May I provide the Administrative Law Judge with additional information after the hearing?**

Only if the Administrative Law Judge asks for it. When writing the Proposal for Decision or the Decision and Order, the Administrative Law Judge may only consider evidence that is in the hearing record. You should be sure to present all evidence that you want the Administrative Law Judge to consider at the hearing. The Administrative Law Judge can ask the parties for post-hearing briefing or for additional evidence, but parties may not submit additional information or evidence on their own.

### **What is a Proposal for Decision?**

A Proposal for Decision is a written document that contains the Administrative Law Judge's discussion of the evidence and issues, findings of fact and conclusions of law, and a recommendation for a decision to the referring agency. A Proposal for Decision is issued in cases where the referring agency makes the final decision.

### **In what cases does the Administrative Law Judge issue a Decision and Order?**

In Administrative License Revocation hearings, Texas Department of Insurance Division of Workers' Compensation hearings, Texas Commission on Law Enforcement F-5 hearings, some Department of Family and Protective Services hearings, the Office of the Attorney General's

Title IV-D child support hearings, and certain other cases, the Administrative Law Judge makes the final decision and issues the final written Decision and Order. Whether an Administrative Law Judge issues a Proposal for Decision or Decision and Order depends on the law that applies to the case.

**Will I receive a copy of the Administrative Law Judge's Proposal for Decision or Decision and Order?**

Yes. The Administrative Law Judge will send a copy of the Proposal for Decision or Decision and Order to the referring agency and all parties. The Proposal for Decision or Decision and Order will be sent to the mailing address that appears in the filings in the case. You must inform the Administrative Law Judge and the other parties if you change your mailing address at any time during the course of the case.

**When will the Administrative Law Judge issue the Proposal for Decision or Decision and Order?**

In most cases, the Proposal for Decision or Decision and Order will be issued within 60 days after the close of the hearing record. However, in certain cases, the deadline may be shorter or longer.

**What if I don't agree with the Administrative Law Judge's decision?**

Parties may file exceptions to the proposal for decision, pointing out what they believe are errors, within 15 days after the proposal for decision is issued. Parties may file replies to the exceptions within 15 days of after the exceptions are filed. In cases where the Administrative Law Judge issues a Decision and Order, parties may file motions for rehearing.

**Can I appeal the agency's final decision after a Proposal for Decision?**

Yes. In most cases, you may appeal an agency's final order or a SOAH final Decision and Order to the Travis County District Court. However, you should check the specific law governing the cases handled by the referring agency to determine your rights to appeal. Administrative License Revocation (driver's license cases) follow a different process.

**Will I have to pay for my hearing?**

In most cases, you will not have to pay for your hearing. However, if you want a copy of a court reporter's transcript of your hearing, you will have to pay for it. A few agencies can charge you the costs of the hearing if you lose. Also, in Appraisal Review Board appeals, contract claims, and worker's compensation cases, costs may be charged to the parties

**Listen to a Recorded Sample Hearing**

A recorded sample hearing is available on SOAH's website, [www.soah.texas.gov](http://www.soah.texas.gov).

## Evidence

The rules of evidence are complicated. This discussion is only a very brief explanation for a self-represented litigant and cannot discuss all the aspects of evidence that may apply in your case. The Texas Rules of Evidence apply to most administrative hearings at the State Office of Administrative Hearings. The rules can be found at <http://www.txcourts.gov>. You can also find copies of the rules in public or county courthouse libraries.

Generally speaking, evidence is information, usually in the form of documents and sworn testimony from witnesses, used to establish the facts of a case.

### Types of Evidence

Most evidence in SOAH hearings comes from oral testimony at the hearing and documents admitted into evidence.

1. **Testimony** – Statements made by a witness under oath, just like at a trial. When testifying, a witness will tell the Administrative Law Judge what happened or what he or she knows.

Both parties to a case can ask witnesses to testify, and both parties get to ask the witnesses questions. If a witness testifies, he or she can be asked questions by each side, no matter who asked the witness to be there. A witness may agree to appear at the hearing voluntarily or may be required to appear through a subpoena. Information about how to get a subpoena is not covered in this section but can be found in the section about the hearing.

If you are a party in a SOAH case, you can also testify, and the other party can call you as a witness to testify.

2. **Documents** – Documents can also be used as evidence. Examples include papers (such as letters, printed emails, letters of recommendation, reports, medical records, invoices, contracts, and audits) as well as photographs, tape recordings, films, and other digital material.

### Objections

If you don't think the rules allow some evidence to be considered or a question to be answered, you can make an objection. You can object to questions asked of a witness, the witness's answer, or to documents. A number of common objections are listed below. This list is intended to be only a short summary of the most common objections made during a hearing at

SOAH. Also, the other parties can object to questions, testimony, or exhibits that you offer for evidence.

**Argumentative** – The person asking questions of the witness is arguing with the witness or using an argumentative tone with the witness.

**Asked and answered (or repetitious)** – The question has previously been asked and answered by the witness.

**Calls for speculation**—The witness is being asked to talk about something they do not actually know.

**Hearsay**—The testimony or document contains a statement made outside the hearing, and the party offering it is trying to show that what was said is true.

**Irrelevant**—The question document contains information that is not part of the issues to be decided in the case.

**Leading**—Asking a question that suggests the answer. You can ask leading questions of a witness called by the other party, but not of a witness that you call to testify.

**Privileged**—The information being sought is protected from disclosure by the rules of evidence. Examples include communications between attorney and client, certain communications between doctors and patients, most private communications between spouses, most communications made to members of the clergy, and other information made confidential by law.

**Vague**—The question is unclear.

**Non-responsive**—The response to a question does not actually answer the question.

As mentioned, this is only a brief summary of the most common objections.

## **Glossary of Legal Terms Often Used at SOAH**

--- A ---

### **Administrative Hearing**

A hearing conducted by an Administrative Law Judge, involving a state agency and one or more parties.

### **Administrative Law Judge**

The person who conducts an administrative hearing. The State Office of Administrative Hearings employs approximately 60 Administrative Law Judges in different offices throughout the state.

--- B ---

### **Brief**

A written argument.

--- C ---

### **Certificate of Conference**

A statement that a party filing a motion conferred with the other party before filing the motion. The certificate of conference should indicate whether the other party is opposed or unopposed to the motion. If the filing party is unable to confer with the other party, the certificate of conference should explain why it was not possible to confer with the other party.

### **Certificate of Service**

A statement of the date and manner in which a copy of a pleading, motion, or document was served on (sent to) all parties or their attorneys. The certificate of service must contain: 1) method of service; 2) date of service; and 3) name and address or relevant contact data at which the individual was served.

### **Complaint**

Some agencies file a complaint, which is a formal document in which a person or administrative agency alleges facts and states what the person is asking for, such as a penalty.

### **Continuance**

Postponing the hearing to a later date.

**Cross-Examination**

Asking questions of the other party or the other party's witness after their direct testimony.

--- D ---

**Default**

Loss of the right to participate in a hearing or challenge a decision, such as for failure to appear at the hearing.

**Direct Testimony**

Statements made under oath by a party or the party's witness. After a party or witness testifies, the other party has the right to ask questions on cross-examination. After that, the Administrative Law Judge might ask if there is any "re-direct," meaning "Do you have any more testimony because of questions asked on cross-examination?"

**Discovery**

Exchange of information before a hearing, such as exhibits and other information about the case.

--- E ---

**Evidence**

An exhibit or testimony submitted during an administrative hearing to prove a fact or facts.

**Exceptions**

A way to point out errors a party believes are in a Proposal for Decision.

**Exhibit**

A tangible thing, document or other printed material, or other data presented by a party during an administrative hearing to show the Administrative Law Judge what the facts are.

--- F ---

## **Filing**

Delivering a document or motion in a case to SOAH. A motion has to be filed at SOAH and provided to all parties to be considered by the Administrative Law Judge.

## **Final Order**

An order that is the final decision in a case. In some administrative proceedings, the Administrative Law Judge is not the final decision maker. Instead, the Administrative Law Judge issues a Proposal for Decision, that is the referring agency then considers. In other cases, the Administrative Law Judge issues a Decision and Order, which is considered to be the final decision.

--- G ---

--- H ---

--- I ---

--- J ---

## **Judicial Notice**

The administrative law judge's determination that a fact is true even if the parties have not presented evidence about it. Usually occurs when a fact is common knowledge or undisputed. *See also* Official Notice.

## **Jurisdiction**

SOAH's authority to hear and decide a case. SOAH's authority to hear and decide a case is provided by laws and rules.



--- K ---

--- L ---

--- M ---

## **Mediation**

A process by which [parties](#) to a dispute attempt to reach an agreement with the help of a mediator.

## **Motion**

A request from a party to the administrative law judge to take some action. When filing a motion, a party must also send a copy of the motion to the other party.

--- N ---

--- O ---

## **Official Notice**

A determination by an [administrative law judge](#) that a fact is true even if the [parties](#) have not presented evidence about it. *See* also Judicial Notice.

--- P ---

## **PFD**

See Proposal for Decision

**Party**

A state agency, a person, or another entity who brings an administrative action or against whom an administrative action is asserted. There will be at least two parties to a hearing.

**Petitioner**

Often, one of the [parties](#) to a case is called a petitioner. The petitioner is called this because he or she is petitioning, or asking, for something.

**Pleading**

A legal document in which a [party](#) states its claim, response, or request.

**Prehearing Conference**

A conference between the administrative law judge and the parties, usually by telephone, that happens before the hearing. Prehearing conferences may be held to talk about the date and time of the hearing, deadlines for exchanging evidence, and to make clear what the hearing issues will be. The Administrative Law Judge will record the prehearing conference.

**Proposal for Decision**

The recommendation by an administrative law judge to the Commission or Board of a referring agency on how to decide a case. The Proposal for Decision must contain findings of fact and conclusions of law explaining how the administrative law judge applied the facts of the case to the relevant laws and rules.

**Pro Se**

This is another way to say “self-represented,” or acting without a lawyer.

--- Q ---

--- R ---

**Rebuttal**

Response to evidence presented by the other party.

**Representative**

A person, such as an attorney, who represents one of the parties to a hearing.

**Respondent**

One of the parties to a case. The respondent is called this because he or she is responding to (answering) an action asserted by another party.

--- S ---

**Service**

Delivering documents to the other party (or, in the case of a subpoena, to a witness).

**Standing**

The right to be a [party](#) to a hearing or to assert a claim. An administrative law judge might dismiss a claim based on a person having no standing if the person would not be directly affected by the outcome.

**Stipulation**

A binding agreement between all parties to a hearing. For example, the parties might stipulate to some or all of the facts, and therefore will not have to present evidence about those facts. Stipulations will either be made in writing before the hearing or by telling the Administrative Law Judge on the record once the hearing starts.

**Subpoena**

An order requiring a witness to appear at a particular time and place to testify and/or produce documents. The party who requests that a witness be subpoenaed must make sure that the witness is properly served and must pay the witness fee and, in some cases, the witness's travel expenses.

**Subpoena Duces Tecum**

A form of subpoena requiring a person to provide the documents either before or at the hearing.

**Summary Disposition**

A decision by the administrative law judge without a hearing. A party might request summary disposition if the party believes that the party must win as a matter of law based on written

evidence and/or admissions that were made by the other party. The other party may respond with argument and evidence showing there are material issues of fact that can be decided only after a full hearing.

--- T ---

### **Testimony**

A statement made by a party or witness under oath during an administrative hearing.

### **Texas Administrative Code**

A Code of all rules adopted by various Texas agencies. It can be found online at <http://www.sos.state.tx.us/tac/>.

### **Transcript**

A document, generally prepared by a court reporter, that sets out what was said at a hearing. The court reporter will not prepare a transcript unless a party or the administrative law judge requests it. Most SOAH cases have only an audio recording and no written transcript.

--- U ---

--- V ---

### **Vacate**

Make void or undo. To vacate an order of dismissal means to undo the order, so that the hearing is reinstated.

### **Venue**

The place where the hearing takes place. Some laws or rules require that certain administrative hearings occur in Austin, Texas. Other laws or rules require that hearings occur in other locations in the state.

--- W ---

**Waive**

Voluntarily give up, such as to give up a right.

--- X ---

--- Y ---

--- Z ---

# Forms

The next few pages contain forms you can use to ask that your case be rescheduled (with a motion for continuance), to ask that the other party be ordered to answer your discovery requests (with a motion to compel), to respond to a motion for summary disposition, and to set aside a default if you missed your hearing.

**State Office of Administrative Hearings**  
**Motion for Continuance (Self-Represented)**

**Instructions**

Use this form if you need to reschedule the SOAH hearing and you have a good reason for the hearing to be postponed.

Before completing this form, you will need to contact the other party (or their attorney) and tell them that you plan to file a Motion for Continuance. You should do this as soon as you know that you need to reschedule the hearing. If the other party is a state agency, you will find contact information for the agency attorney on the Notice of Hearing. Ask the other party if they have any objection to the continuance. You should also discuss dates when you are both available for a rescheduled hearing.

Enter the SOAH docket number, case name, hearing date, time, and location as those items appear on your Notice of Hearing (or order from the judge).

Enter your name, as well as your current address and phone number.

Explain why you can't attend the hearing on the currently scheduled date and time.

Say when you first learned that you can't attend.

Give the name of the other party (or attorney) you contacted to discuss your Motion for Continuance.

If you spoke to the other party, say whether he or she agrees to the continuance.

If your attempt to contact the other party was not successful, check the box indicating that the other party was not available to discuss your request.

Provide three dates for rescheduling the hearing if you and the other party were able to agree to them. If you spoke to the other party and could not agree on dates, then list your available dates and state that the other party did not agree.

Certain state agency hearings may have a deadline for a hearing or decision. By filing your Motion for Continuance, you may be giving up your right to a faster hearing of your case.

The judge may deny the continuance, even if the parties agree to it. The judge might also schedule a hearing to take place on the telephone to consider your request. **Until the judge grants the Motion for Continuance, the existing schedule remains in place.**

You must serve a copy of the Motion for Continuance on the other party and complete the certification.



**State Office of Administrative Hearings**  
**Motion for Continuance (Self-Represented)**

**SOAH Docket Number:**

**Case Name:**

**Hearing Date and Time:**

**Hearing Location:**

**1. Enter your name, address, and phone number:**

**2. I cannot attend the hearing on the scheduled date and time because:**

3. I learned of these facts on or about:

4. I contacted

who is the other party to the hearing or the other party's attorney. The other party:

\_\_\_\_\_ DOES NOT OPPOSE the continuance.

\_\_\_\_\_ OPPOSES the continuance.

\_\_\_\_\_ WAS NOT AVAILABLE to discuss the request.

5. Both parties are available for rescheduling as follows:

6. I understand that the judge may grant or deny the request, regardless of whether both parties agree to a continuance, and the judge may not be able to reschedule the case for the date I requested.

7. I certify that on this date I served a copy of the Motion for Continuance to the opposing party by the following means:

\_\_\_\_\_ first class mail      \_\_\_\_\_ fax      \_\_\_\_\_ email

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**State Office of Administrative Hearings**

**Motion to Compel (Self-Represented)**

**SOAH Docket Number:**

**Case Name:**

- 1. Enter your name, address, and phone number:**

- 2. On \_\_\_\_\_, 201\_\_\_\_, I served (requests for disclosure/interrogatories/requests for production) (circle which applies) on \_\_\_\_\_(opposing party). On \_\_\_\_\_, 201\_\_\_\_, I received objections and/or received no responses to the following interrogatories/requests for production (which are attached to this motion):**

3. These objections should be denied. The information/documents that I requested are relevant to this case and should be produced because:

4. I contacted

who is the other party to the hearing or the other party's attorney, on \_\_\_\_\_, 201\_\_. We were unable to reach an agreement on the information/documents that are the subject of this motion.

5. I certify that on this date I served a copy of the Motion to Compel to the opposing party by the following means:

\_\_\_\_\_ first class mail      \_\_\_\_\_ fax      \_\_\_\_\_ email

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**State Office of Administrative Hearings**

**Response to Motion for Summary Disposition (Self-Represented)**

**SOAH Docket Number:**

**Case Name:**

1. Enter your name, address, and phone number:

2. The motion for summary disposition filed by \_\_\_\_\_ should be denied because:

**3. Included with this response as exhibits are:**

**My own affidavit/sworn declaration**

**The following documents:**

--

**4. Based on the evidence submitted with this response, there are genuine issues of material fact that require a full hearing on the merits.**

**5. I certify that on this date I served a copy of this Response to Motion for Summary Disposition to the opposing party by the following means:**

\_\_\_\_\_ first class mail      \_\_\_\_\_ fax      \_\_\_\_\_ email

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Signature**

**State Office of Administrative Hearings**  
**Motion to Set Aside Default (Self-Represented)**

**SOAH Docket Number:**

**Case Name:**

**Hearing Date, Time and Location:**

- 1. Enter your name, address, and phone number:**

- 2. I hereby request that the default decision issued against me in this case be set aside and that the hearing and record be reopened. There is good cause to set aside the default and reopen the hearing, and/or it is in the interest of justice to set aside the default and reopen the hearing, because:**

3. My failure to appear at the hearing was not intentional or the result of conscious indifference, but was accidental and a mistake on my part.

4. I can be available on the following dates for rescheduling the hearing:

5. I contacted

who is the other party to the hearing or the other party's attorney. The other party:

\_\_\_\_\_ DOES NOT OPPOSE this motion.

\_\_\_\_\_ OPPOSES this motion.

\_\_\_\_\_ WAS NOT AVAILABLE to discuss this motion.

6. I certify that on this date I served a copy of this request to the opposing party by the following means:

\_\_\_\_\_ first class mail      \_\_\_\_\_ fax      \_\_\_\_\_ email

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature



